



6 CONSIDERATIONS BEFORE STARTING A PRIVATE FOUNDATION

Whittier Trust

These Essential Questions Will Inform the Direction of Your Charitable Giving Endeavors

1. A private foundation can be established as a corporation or charitable trust and offers more control for the donor.
2. With a foundation, you have the flexibility to make a grant to another private foundation or to a for-profit entity (after completing additional diligence), in addition to public charities.

The first thing to know about starting a private foundation is that it's not your only option when it comes to philanthropic giving. A donor advised fund (DAF) is another popular grant-making entity available to you. "The entities are very different in terms of legal structure and governing rules, but you can name your DAF with 'Foundation' in it and the public won't know the difference," says Ashley Fontanetta, vice president of Philanthropic Services at Whittier Trust.

A DAF must be housed by a sponsoring organization that holds authority with respect to final grant-making decisions, however they take grant-making direction from those named as advisors to the fund. A private foundation can be established as a corporation or charitable trust and offers more control for the donor. If you start out with establishing a foundation and then change your mind, you can transfer assets to a DAF later on. However, once a DAF is established, the assets within it are irrevocably there.

"There are numerous things you can do with a foundation and can't do with a DAF, and vice versa," Fontanetta says.

The following are six questions to ask yourself when deciding on the most compatible path for your charitable goals.

1. How much time do you have to put into your philanthropic causes organization?

Every private foundation that is established as a corporation must have an annual meeting, recorded minutes of that meeting and a tax return filed. "At the very least, you have to convene once a year. If that's a problem for your family, then a donor advised fund would be the better choice since it does not have a meeting requirement," says Fontanetta.

2. Who is going to be involved in managing it?

Typically, the board of directors of a private foundation is made up of family members. The board has a fiduciary responsibility to the foundation, such as paying attention to financial statements and attending the annual meeting. A family member might even find a career path as the executive director of the foundation. “Family engagement could be a big reason for setting up the foundation in the first place, and the formal push to get together annually and compensating board members or an executive director might be welcome,” Fontanetta says. However, if you prefer a less time-consuming, low-key approach, a DAF is a better choice since it doesn’t have any of those requirements. “It can essentially just sit there until you’re ready to make grants,” says Fontanetta.

3. What kinds of grants would you like to make?

A DAF is more restrictive in that you can only grant funds to another 501(c)(3) public charity. With a foundation, you have the flexibility to make a grant to another private foundation or to a for-profit entity (after completing additional diligence), in addition to public charities.

4. What experiences do you want to have?

Experiences that are of a reasonable cost and are in line with your foundation’s mission and charitable purpose are deemed “qualified” to be paid from the foundation itself. For instance, you might envision further education and a salary for the executive director, an annual board retreat, travel stipends for meetings and site visits, hiring a consultant to create a website about your foundation and its charitable giving. “If these things are part of what philanthropy looks like for you, establishing a private foundation is the right path, as you cannot pay for any such expenses from a DAF,” Fontanetta says.

Another financial consideration with a foundation is the required 5% of average asset value distribution to charitable purposes each year. “This 5% includes grants but also certain expenses. Anything that is related to your charitable purpose and not spent on investment management can apply,” says Fontanetta. With expenses calculated, she suggests asking yourself “Will I be able to make the charitable impact that I intended?”. If not, then a DAF might be the better choice.

A DAF does not require a minimum annual distribution or tax return.

5. Which assets will you contribute?

The IRS offers the highest level of charitable deduction for donations to public charities which include DAFs. Fontanetta provides this example: If real estate is contributed to a private foundation, the amount you are allowed to deduct is going to be limited to the cost basis, which is likely lower than the market value is right now, and a percentage of your adjusted gross income (AGI). Alternatively, if you contribute that same real estate to your DAF, the deduction will be based on the fair market value of the property and a higher percentage of your AGI. “This is a massive difference in a lot of cases,” says Fontanetta. One consideration might be to maintain both a private foundation and a DAF. The DAF could receive certain assets such as real estate to maximize your tax deductions.

6. If you decide on a DAF, what kind of sponsoring organization works best for you?

It is necessary to select a sponsoring organization, such as a financial institution or community foundation, to house your DAF. Fontanetta notes that not all DAFs are similarly situated. It’s important to look at options in both a community foundation and

a financial institution to find the best fit for your needs. Depending on the type of assets you want to contribute or how long you'd like your family to advise grantmaking or what investment options are available, one option will stand out as a better fit for you. With regard to fees, it's important to understand both the administrative fee as well as the investment fee, which are often separate.

Whittier Trust provides a unique offering for DAFs. While we do not maintain public charity status, we partner with a best-in-class community foundation that allows us to invest assets for our clients and

maintain the primary role of interfacing with the client and grantees. "With expertise in estate settlement, real estate, private equity and other complex investments, this capability allows Whittier clients more flexibility to contribute and manage alternative assets within their DAF," Fontanetta says.

If you're not sure if a private foundation or donor advised fund is right for your situation, the Philanthropic Services team at Whittier will help you understand the differences between the two and advise on which direction is the best for your family.

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